3-24-1986

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ALLEDGER

Vol. VI, No. 10 BOSTON COLLEGE LAW SCHOOL MARCH 24-APRIL 4, 1986

Frank Wilkinson: Defense of Freedom

Frank Wilkinson is scheduled to speak in the LSA Speaker Series on Tuesday, April 15, at 12:00 p.m. in room 315. Professor Arthur Berney is making the arrangements and will introduce Mr. Wilkinson.

By Bill Blum

If eternal vigilance is the price we pay to protect the Bill of Rights, the American people must owe Frank Wilkinson a small fortune in unpaid overtime. Over the past twenty years, as the national executive director of the National Committee Against Repressive Legislation (NCARL), Frank has carried the defense of civil liberties to over 45 states, appearing on hundreds of TV and radio programs and addressing more than 1500 student audiences and an equal number of religious, professional, labor and community organizations.

At the same time, Wilkinson has coordinated and directed NCARL's work, planned its political strategies and drafted much of its widely disseminated literature on repressive legislation.

Although he retired as NCARL's national director in 1980, Wilkinson continues to work on a volunteer basis. During his 20-year tenure as a paid staffer, he received subsistence wages for a work week which normally lasted 60-100 hours and found him on the road two out of every three days. Even today, at the age of 67, his indefatigable energy remains a constant source of astonishment among his colleagues, both young and old.

The son of a Methodist lay leader, Wilkinson was born in Charlevoix, Michigan. At the age of 10, his family moved to Beverly Hills. Upon graduation from UCLA in 1936 Wilkinson planned to become a minister, but decided to take a world tour before entering religious studies. In the course of this trip he saw American slums for the first time and upon returning to Los Angeles, abandoned his plan for religious studies and embarked instead on a career in public housing.

Wilkinson's political career took shape in 1939, when he became secretary of the Citizen's Housing Council of Los Angeles, a privately funded public-interest organization designed to promote the construction of low-rent integrated public housing. The Council was headed by Mnsgr. Thomas J. O'Dwyer, Archdiocesan Director of Catholic Hospitals and Charities. Three years later, he joined the Los Angeles City Housing Authority, where he served as assistant to the director and soon became a national authority on slum clearance. Among his achievements was serving as manager of the first integrated housing project in the Watts ghetto in 1942.

But Wilkinson was abruptly removed from his housing position in 1942 when, in the course of a slum condemnation proceeding, he was called before California's "little HUAC" and asked to name all the organizations he had belonged to since 1931. Refusing to answer, he was removed from his government job.

Wilkinson's spirit, however, remained undaunted. In 1953, he became executive secretary of the Los Angeles-based Citizen's Committee to Preserve American Freedoms, dedicated to abolishing "big HUAC," the House Committee on UnAmerican Activities. Wilkinson's first activity in this capacity was to organize, in February 1954, a banquet to defend the National Lawyers Guild, then under attack by HUAC and Attorney General Herbert Brownell, Jr.

Several years later, as a staff member of the Emergency Civil Liberties Committee, Wilkinson assisted in a national effort to abolish HUAC. He traveled throughout the country to organize support for those subpoenaed before the committee. During the course of this campaign in 1958, the Southern Conference Educational Fund invited him to Atlanta to help organize resistance to a proposed HUAC proceeding there.

Wilkinson found himself subpoenaed to the Atlanta inquest. When asked by HUAC members about political affiliations, both he and the late Carl Braden, another civil liberties organizer, declined to answer on First Amendment grounds. Both men were cited for contempt and lost five-to-four decisions before the U.S. Supreme Court. (Wilkinson v. United States, 365 US 397; Braden v. United States, 365 US 431.) They received one-year sentences, which they served in federal penitentiaries in Georgia, South Carolina, Virginia and Pennsylvania. On his way to prison, Wilkinson stated the civil liberties credo which he has personified throughout his life:

"I have made the First Amendment challenge . . . as a matter of personal conscience and the responsibility we all share to defend the Constitution against all enemies . . . We will not save free speech if we are not prepared to go to jail in its defense. I am prepared to pay that price."

While Wilkinson and Carl Braden were serving their sentences, thousands of Americans at the urging of Martin Luther King, Jr., Reinhold Niebuhr, Howard Schomer

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Property Prof. Frank Uffam, or is it Upham, leads the chorus of the BC Law Revue as it sings "Green acres is the place to be, fee simple's the estate for me . . ."

Professor Cottrol on Racial Politics in Boston

By Jeanne MacLaren

Professor Robert J. Cottrol presented his paper entitled "Law, Politics and Race in Urban America: Towards a New Synthesis" at the American Society for Legal History this past fall. Rutgers Law Journal will publish it next fall. I was one of 3 student research assistants who contributed to this thought-provoking and highly readable article. Many students might appreciate the insights provided in Prof. Cottrol's study of Boston's political history. This summary attempts to do justice to his entire effort and to the curiosity about the roots of the racial tension in Boston.

Before, during and just after the Civil War, Massachusetts was one of a few states which led the nation in eliminating *de jure* racial discrimination. Massachusetts's Constitution from 1780 carries no racial restrictions on voting. This was one of the reasons it passed after defeat by referendum of the 1778 Constitution with its all white suffrage provision. The constitutional clause proclaiming all men "free and equal" was construed 3 years later by the courts as incompatible with slavery.

The rights of Blacks to serve as jurors and be elected to public office was embedded in this state's law before the 19th C. Early in the 19th C. Boston supported 2 black public schools. In 1855 Governor Gardner signed an integrated school bill, prohibiting discrimination in the assignment of pupils to public schools. Just prior to this the legislature also recognized the validity of interracial marriages. During and after the Civil War, when racist views were prominent in most sectors of society, again the Masschusetts legislature forged ahead and prohibited private discrimination in hotels, restaurants, taverns and insurance companies.

Given this sample equal right legislation in Massachusetts, it is difficult to account for any role of the law in the current *de facto* discrimination prevalent in the living and working conditions of Boston today. Hence, an expanded historical understanding is needed.

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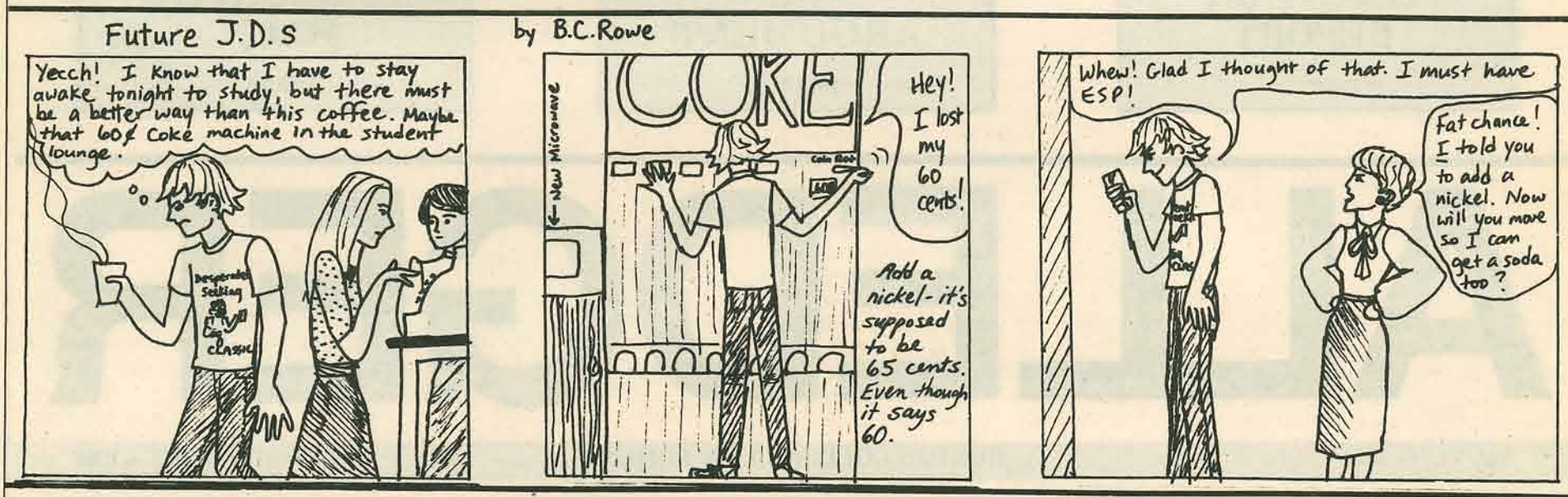
OPINION/EDITORIAL



An Inspiring Telethon

By Andrew H. Sharp

I'd never been involved in a telethon before so I didn't really know what to expect. I never imagined that the Law School Telethon would be so exciting.

After a sumpsous banquet ably served by nubile undergrads, the student volunteers were led to a festive and ornate More Hall. Each of us was equipped with a state of the art AT&T telephone. We even had our own desks.

Then they hauled in the lights and television cameras and set up for the live broadcast. Celebrities began to file in, nervously chattering with one another. I remember Gavin MacLeod arguing with Pia Zadora and having to be physicaly restrained. I was too far away to hear what that was all about but I think I heard the word "talent" used a few times.

At 7:00 pm we went on the air. The host, Tony Orlando, was caught in traffic on Nonantum Road so an unprepared George Bush went on and made a moving plea for funds. He cited numerous horror stories of repression and warned of a domino-like spread of Communism. Thankfully Tony Orlando did arrive and a reluctant Mr. Bush was escorted to a waiting car.

Orlando, the uncrowned king of show business, had tears in his eyes when he wheeled out the 1986 Law School Telethon Poster Student. The Poster Student (who wishes to go through law school anonymously) explained to a hushed audience how his dream of being a "people's lawyer" was denied to him because of the inadequate renumeration of public interest lawyering. As a grim consequence, the student had been forced to accept a summer position with a corporate law firm. "Won't you help?" he sobbed.

Calls began to come in at that point so I was kept pretty busy. Most of the evening was a blur of hot lights and chemical stimulants. I don't remember exactly how much money was pledged over my phone. I do know that the Boston College Law School Alumni is a resource that has to be more efficiently tapped in order for the school to compete with schools like Harvard for top quality professors. Moreover, Alumni contribution must be increased before a BCLS loan forgiveness program could be possible. Also, cuts in government-funded student loan programs make it imperative to increase alumni contribution. These were just several of the considerations which inspired those selfless, sainted students who donated their time to the event.

I don't recall exactly when Tony Orlando said goodnight to the millions of home viewers. I think it was right after a bouyant Dean Coquellette sang "Hotel California." All I remembered at the end of the evening was being tired. But you know, it was a GOOD kind of tired.

(Alright, so I embellished the details. The law school telethon actually took place on three nights instead of one. The event was not televised and it was volunteers who called alumni, not the other way around. But Gavin MacLeod *did* have a big fight with Pia Zadora.)

ALLEDGER

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The Alledger is published every other Monday, 12 times per academic year, by the students of **Boston College Law School**. We welcome submissions and contributions from all our readers. Manuscripts, newsletters, ads, notices, etc. should reach us by 12:00 pm the Wednesday immediately preceding the intended publication date. Copy may be left at the *Alledger* (M201B Stuart Hall), or in our mailbox across from the Dean's offices.

Typesetting and Printing by Citizen Group Publications, 481 Harvard St., Brookline, MA 02146.

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Editorial

By Ken Viscarello

A couple of weeks ago, during the break, I had the opportunity to go to Suffolk Law School to hear the Honorable Judge Posner speak. For those of you who are not familiar with Judge Posner, he is a circuit judge and scholar noted for his application of economic theories to legal principles. I left the speech fascinated. I was not, however, fascinated by Judge Posner's speech (it was actually very boring, a rewrite of Judge Hands BCPL applied to the first amendment). I was, however, fascinated with the attendance for the speech. The speech was held in a room with an approximate capacity of 250. Every single seat was filled. In addition the aisles were filled with approximately another 100 people standing. I, myself was wedged in with about 25 people right in front of the podium, one of whom was the Dean of Suffolk Law. The first five rows were all filled with faculty, looking very distinguished and diligently taking notes.

To say the least I was impressed. However, my esteem turned to amazement when right before the speech, a woman approached the microphone and said that the speech was also being shown on close-circuit television in a room one floor below us, and that room too was rapidly becoming full. At this point I began to think about our own speaker series and its lack of *both* student body and faculty attendance. But then I thought, the attendance here is probably so good because the speaker is Judge Posner and he is after all rumored to be a candidate for any possible opening on the Supreme Court. So, I turned to the person who invited me and asked her if the turnout was always this large. She responded in the affirmative and said that the turnout was always large especially when a D.A. or noted trial attorney came to speak.

Once again my thoughts turned to our own speaker series, and why the attendance was always less than enthusiastic. I know Jay Sichlich, the person in charge of the series, pretty well, and I know he puts a lot of time and effort into arranging the series. He also does a good job publicizing the series, putting up announcements early in the week for the Friday morning speech. Yet, many times the turnout is less than enthusiastic. (On a tangent I can relate to his frustration when I try to solicit articles for the Alledger.)

I suspect some of the problems with the turnout lie in scheduling. Many second and third years do not have classes on Fridays. For example many classes, e.g. Securities Regs and Conflicts, meet Monday, Wednesday, Thursday, instead of the traditional M,W,F. Personally this scheduling is great for me and many others, I get Fridays off and have time to devote myself to a part time job. So, I too am one of those parties who is delinquent from the speaker series.

I feel personally that it is a tragedy that BCGS cannot fill a classroom to hear a speaker for 45 minutes. While I was at Suffolk I tried to imagine what Judge Posner felt when he looked out over that sea of students and faculty. He was probably thinking that Suffolk was a good law school or at the very least that people at Suffolk were interested in hearing a well known speaker and furthering their legal educations. He even cracked a joke about being on closed circuit TV (his only humorous remark of the day). Then I wondered what would he think if he was at BCLS and looked up to see 50 people in room 315. Then I started to wonder what kind of reputation this school will have after I graduate this year. How will it be perceived by the outside world? Why do we sometimes appear to be very apathetic and self-centered?

I am not really sure what the solution should be. Perhaps the professors can plug the speakers for a couple minutes before class (I remember my first year profs doing that a couple of times). However, the purpose of this editorial was not to offer solutions or explanation but just to make us all think of what we want this school to be and how we want it to be perceived by the outside world and the legal community in general.

Oh, by the way, about 20 minutes into the speech, the person I was with nudged me and pointed to Mrs. Posner who had accompanied Judge Posner and was sitting in the first row . . . she was fast asleep.

Justice Learned Lee Reverses Lower Court Decision

STUDENTS OF BCLS
v.
BOSTONIENSE COLLEGIUM
Middlesex Appeals Court
Argued February 24, 1986
Decided March 15, 1986

LEARNED LEE, J

In the action below, members of the student body of the Boston College Law School filed a class action suit against various unnamed freshmen of Newton Campus and the Board of Trustees of Boston College seeking injunctive relief, namely, the removal of those "infantile, puerile, and immature" undergraduates from Stuart Hall. The Newton Circuit Court, Judge Lee presiding, held that relief sought was beyond the scope of judicial authority and ruled in favor of the defendants. We reverse.

The present situation on the Newton grounds of Boston College is indeed one of grave concern. Here, law students and undergraduate freshmen of the same institution are forced to share common facilities. As one social commentator noted, these are two definably different groups. *Heights, Feb. 18, ed.* On one hand, we have a group of students struggling, straining, and groping to master that discipline known as "the law." On the other, there is the class of individuals who have only recently survived the rites of puberty. One can only ponder as to what the University officials had in mind in placing these two groups on the same campus.

The trial decision of this action has prompted a great deal of social, legal, and academic commentary. We note for informational purposes only, the chief criticism of the lower court's decision: it restores the status quo. "Now as before, freshmen are free to roam about the Law School premises, behaving in any manor they damn well please." Obviously, the matter at hand is of great importance to numerous parties. The outcome of this action involves broad and numerous ramifications. Let there be no mistake: We do not treat this case lightly.

The learned judge below correctly held that although the plaintiff law students suffered substantial injury and were morally entitled to some type of relief, the court was not empowered to do so. Instead, the judge declared that administrative agencies are better equipped to resolve this complex problem. He wrote: "This situation cries for swift and decisive action by the Administration."

It should be plain and obvious to any party of ordinary intelligence that this statement was meant as a signal to a certain party that certain action must be taken. If the Administration were to take the proper steps to remedy the Newton dilemma, it would be unnecessary, indeed improper, for his court to review this case.

Before reviewing the actions the Administration has taken subsequent to the date of the trial decision, we must explicitly name the party we are addressing. When we speak of the "Administration," we refer to the Administration of the University ("the University Administration"), and not the Administration of the Law School ("the Law School Administration"). The latter is clearly the servant in the master-servant relationship and is not a party to this suit; the former must bear the ultimate responsibility. However, we will include mention of both parties when appropriate.

The Law School Administration, in the past two months, has implemented two new programs which are relevant to our discussion. First, the School has instituted a policy of locking the front doors of Stuart Hall during designated evening hoursto exclude entry of undesirable individuals. Secondly, the School has implemented a plan of towing unauthorized motor vehicles from its premises. This is explained in a memorandum written by the Assistant Dean for Students which includes: "The towing program will be aimed at cars without stickers, *undergraduates* and student cars without stickers." (emphasis added.)

Viewing the above actions in the light most favorable to the Law School Administration, we deem them to be all that the Law School could have done to evict undergraduate freshmen from Newton Campus.

Turning now to the University Administration, we see that this party has also responded to the trial decision. Namely, the University Administration has raised the Law School student tuition by $900. We do not think this is what Judge Lee had in mind by "swift and decisive action."

In support of the plaintiff's motion for relief, this court has available a vast number of amicus curiae briefs submitted by various organizations and individuals associated with the Law School. One such brief documents the years of neglect and mistreatment the Law School has endured. Another provides a lengthy list of situations where law students must make the cumbersome journey to the Chestnut Hill Campus. This brief emphasizes that only recently did law students not have to make the eastward trek to find a lighted study carrel. Another brief facetiously declares: "Thank God we don't have to go to the Main Campus to go to the bathroom." Thank God indeed. No court is able to guarantee that type of relief.

In its motion for dismissal, the defendant urges and we agree that this tribunal is a court of law and not a theological institution. We see, however, that the defendant party *is* a theological institution, in a manner of speaking. "A Jesuit university, then, and more specifically, Boston College, provides young men and women with both an education and a system of values." *Undergraduate Catalogue,* p. 9. It would seem, then, that the defendant institution is quite capable of providing, without judicial intervention, an environment where principles of fairness, equity, and justice prevail for all. It is a said state of affairs that this court must review this case at all.

In arguing that the University Administration has no legal obligation to monitor the less than adequate behavior of the Newton freshmen, the defendant places great reliance on *Hegel v. Langsam*, 29 Ohio Misc. 147, 55 0.0.2d 476, 273 N.E. 2d 351 (1971). The pertinent portion of this case is as follows: "A university is an institution for the advancement of knowledge and learning. It is neither a nursery school, a boarding school, nor a prison. (Those in attendance) must be presumed to have sufficient maturity to conduct their own personal affairs. (A university has no duty to) regulate the private lives of its students." *Id.*

The facts of this case are significantly different. Here, the students in question, the freshmen students residing at the Newton campus, are not presumed to have enough maturity to do anything. Furthermore, we would not require the University Administration to "regulate the private lives of students," but only to exercise its proper administrative powers.

Finally, the defendent proposes that this action is merely one of damnum absque injuria. To support this contention, the defendant submits a clever memorandum entitled, "Freshmen, Bees, and the Meaning of Life." It reads in part: "Freshmen, like bees, must exist in nature. Their presence is seasonal. They are not permanent. They come without invitation and depart without fanfare. Both have the tools to make life difficult for those at Boston College Law School. It is simply the laws of nature in operation."

In spite of the ingenious nature of this memorandum, we reject it on the basis of insufficient legal merit.

We now come to the specific matter of the plaintiffs' remedy. We note once again, for it is worth repeating, that our decision to grant relief to the law students is prompted solely by the foot-dragging policies of the University Administration towards the Law School.

It is hereby ordered that the powers that be at Bostoniense Collegium, with all deliberate speed, implement programs to i) restrict the entry of all Newton freshmen form the Law School's academic facilities and their attachments; ii) provide separate facilities for Law School personnel in the Stuart Hall dining room and the adjoining snack bar; iii) provide instruction to those underdeveloped freshmen on lessons of general deportment and dining decorum.

The decision of the trial court is reversed.

All concur.

Wilkinson, *continued from page 1*

(Secretary of the World Council of Churches) and others, petitioned for their freedom. In 1962, they emerged from prison—not as "disgraced convicted criminals," as HUAC had hoped—but as leaders of a revitalized progressive movement.

Upon his release, Wilkinson returned to the National Committee to Abolish HUAC, which had been founded in 1960 by the famous civil libertarians Dr. Alexander Meikeljohn and Aubrey Williams. Although labeled by both Congress and the media as a "Communist plot," the committee eventually succeeded. By 1969, HUAC adopted a new, sanitized name, the House Internal Security Committee. Six years later, it was disbanded altogether.

As HUAC's authority crumbled, Wilkinson's group took on other legislative goals and changed its name to the National Committee Against Repressive Legislation. In 1968, it joined with the Japanese-American Citizens League in a successful three-year campaign to repeal the 1950 Emergency Detention Act, which authorized the establishment of concentration camps for political dissenters in times of "national emergency." Two years later, NCARL contributed to another victory, the dismantling of the Subversive Activities Control Board. Still another triumph was recorded in 1974 as Congress repealed the "No-Knock" statute, which permitted narcotics agents to break and enter dwellings without showing warrants or identifying themselves.

Since 1973, a major focus of NCARL has been the various efforts to reorganize the federal criminal code. From Senate Bill One of the 94th Congress to the current S. 1630, NCARL has been the leading force in the grassroots movement to prevent criminal code reform from being used as a vehicle for political repression. Currently, NCARL is also involved in a campaign to abolish a revived version of HUAC, the Senate Judiciary Subcommittee on Security and Terrorism, created in 1980, and parallel developments in the House.

NCARL is also in the midst of a precedent-setting federal lawsuit. In 1980, the group filed suit against the Justice Department and the FBI, seeking $16 million in damages for years of illegal wiretapping, surveillance of staff members and the illegal entry into the committee's Chicago office. Thus far, NCARL has obtained, via the Freedom of Information Act, over 45,000 documents substantiating its claims of government wrongdoing. Not surprisingly, the FBI's primary target these many years has been Frank Wilkinson. NCARL and the other plaintiffs are being represented by Fred Okrand, ACLU legal director and volunteer counsel Paul Hoffman, Professor at Southwestern School of law and Douglas E. Mirell of the law firm of Loeb & Loeb, and others.

Publications by Frank Wilkinson

"Behind the Bars for the First Amendment" — Co-Editor

"And Now The Bill Comes Due" — role of HUAC in Watts Uprising in 1965
Frontier Magazine

"The Era of Libertarian Repression—1948 to 1973"
University of Akron Law Review

"From HUAC to S. 1," with Chicago Law Dean Norval Morris & others
The Center Magazine—Center for the Study of Democratic Institutions

"Controversial Senate Bill No. 1"
Newsletter—American Bar Association, Section of Individual Rights & Responsibilities

Cottrol, *continued from page 1*

Law defines many of the group relationships in American society. Labor and Indian law reveal this most obviously. Although judicial interpretation of the law determines some of its real world application, this does not account for the vast differences in written and realized equal rights for blacks in Boston.

A close look at the crucial alliances Boston blacks formed with certain Yankees in the successful mid 19th century pursuit of *de jure* racial egalitarianism sheds light. Ironically, this reform-minded alliance spurred Yankee-Irish tensions since the Yankee group most advanced in reform for blacks was also riddled with bigotry toward the Irish. Tensions between the Irish immigrants and black natives, as a result of this bonding, grew far beyond a natural desperate competition for unskilled work.

A faction of the American Party, known as the "Know-Nothings" promoted black rights, it seemed, at the expense of Irish immigrant rights. In the same year the Massachusetts legislature outlawed school segregation (1855), it passed a constitutional amendment effectively barring foreign born citizens from voting. However, Gov. Gardner's veto defeated the amendment. This characterized for the blacks an ugly, deep rooted coincidence with undreamed ramifications.

Complex ethnic antagonisms festered throughout the late 19th century among native Yankees, Irish immigrants and blacks, both migrant and native. Among their differences were religion and several responses to antebellum reform movements including temperance and equal rights for blacks. The Yankees and blacks were primarily Protestant, voted Republican, and supported temperance and equal rights. Defensively, the Catholic Irish fought temperance, voted Democratic, and learned that

continued on next page

Professor Robert J. Cottrol's major scholarly interests are Legal History and Constiitutional Law.

Women and the Law April Activities

In March the Women's Law Center announced a series of presentations and discussions exploring the general topic of women and the law and Boston College Law School. Throughout March and the beginning of April the law school community has been invited to participate in this unique series of events. The next meeting will be a panel discussion of Women 's Law Center representatives who attended the national Women and the Law Conference. This event will be held Wednesday, April 2nd, at 12:00 pm in the student lounge.

The series will culminate with a special panel discussion including Professsors Mary Ann Glendon, Carol Liebman, and Jennifer Rochow, on Thursday, April 10th, at 4:00 pm at a location to be an nounced.

Law students who are interested in becoming more active participants in Women's Rights issues may want to contact the Boston National Organization for Women office. Throughout April, the Boston NOW organization will be conducting a series of workshops. All of the following task force meetings are scheduled to begin at 7:00 pm on the respective dates and will be held at the Boston NOW offices located at 99 Bishop Allen Drive in Cambridge. Further information may be obtained by calling 661-6015.

On Thursday, April 3, the Legislative Task Force will meet. The goal of the meeting is to teach participants how to lobby state legislators and mobilize support for important women's issues.

On Tuesday, April 8, the Reproductive Rights Task Force will meet. The task force is organizing against a proposed anti-abortion amendment to the Massachusetts constitution.

On Monday, April 14, the Economic Equity Task Force will meet. The task force uses legislation and public education to support pay equity, the Up-To-Poverty Campaign, and social security benefits for older women.

On Wednesday, April 16, the Lesbian Rights Task Force will meet. This will be an informational meeting to discuss what Boston NOW is doing to pass federal and state lesbian and gay civil rights legislation and to prohibit discrimination in foster parenting, employment and housing.

In addition to these task force meetings, Boston NOW is also sponsoring a Walk for Women's Lives. The intent of this walk is to defend access to legal abortion and birth control. The protest walk will be held on April 27 at the Boston Common. More information about the walk and pledge cards for the walk may be obtained by calling the offices of Boston NOW.

OL Argument

By O.L.

How bad could it possibly be? I asked myself. It was *only* an oral argument. After all, it was the summary judgment memo that had everybody on the verge of a nervous breakdown. I handed that in with no big problems, after pulling my usual all-nighter.

The oral argument would be "fun," someone told me. "The 'judges' might be a bit hard on you, but they'll just be doing their job... Sure, everybody gets nervous, but that's natural... When you're up there, just relax and do what you did in practice... You'll be out of there in less than half an hour... Do the best you can. Don't worry about making the argument that will go down in jurisprudential history."

Unfortunately, I managed to do just that—but not in the way I wanted to.

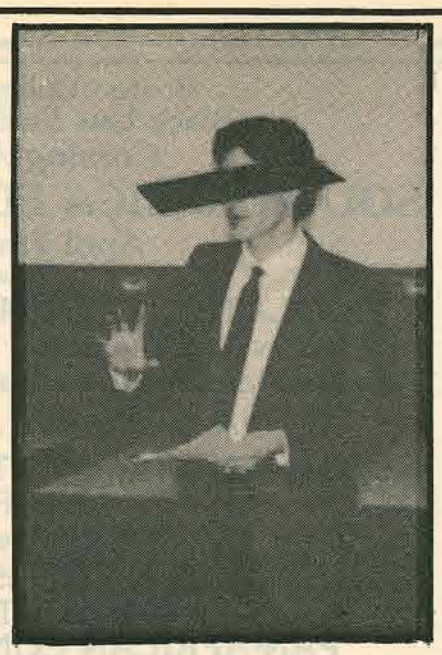
It was the case of Pat Maxwell v. Garcia Transportation Company. (I don't think I'll ever forget that title as long as I live.) The legal action dealt with the plaintiff Pat Maxwell who was fired from her position as a bus driver by Garcia, the defendent employer. Garcia claimed that it terminated the plaintiff's employment because she had lied on her application form about her epileptic condition. On the other hand, Pat Maxwell contended her epilepsy was controlled by medication, and that her dismissal violated a state statute which proscribed employment discrimination against qualified handicapped individuals.

The defendant filed a motion for summary judgment. I was to go in as Pat Maxwell's attorney to argue that the motion be denied since the record showed that there *was* a genuine issue as to a material fact. (The precise reason Garcia fired Pat Maxwell.)

I planned meticulously for my argument. Like my classmates who were representing the plaintiff, I was on solid legal ground as to why a summary judgment would be inappropriate. In my preparation, I anticipated the argument my opposing counsel would make, and the type of questions I would get from the judge. I was ready.

I also prepared for the unexpected. What would I do if I drew a blank in the middle of my speech? What would I say if the judge picked apart my argument altogether? Well, I figured I could count on my naturally charming Roman good looks to carry me through. If this didn't work, I'd try to sway the judge to my side by making a subtle but persuasive point of law: "Your honor, I don't know if it's the robe or the lighting in this room, but, have you lost some weight lately? You are looking pretty sharp!"

My opposing counsel finished her presentation and sat down. I approached the lectern and introduced myself. Then, without warning, it happened. I t was at that point that the English



O.L stumbling his way through a memorable oral argument.

language as I knew it took a vacation. Looking back, I think I was trying to say something to the effect of: "...not entitled to judgment as a matter of law." But the words just didn't come out. I stood there totally helpless. I fidgeted. I shuffled my notes. Still, nothing came out of my mouth. I looked up at the judge, hoping that the desperate look on my face would rescue me. No such luck. I looked at my opposing counsel, who obviously felt sorry but couldn't do anything for me. (Before going in, we agreed that neither of us would purposely try to make the other look bad. But I didn't say anything about not making *myself* look bad.)

Reeling from that mental block at the outset, I tried to get back on the track. I blurted out the first few words of my argument. Yes, it *did* get better. (How could it possibly get worse?) I got through half of my presentation when the judge berated me with a series of questions that left me wondering if I was on the right planet.

I mumbled my way through the end, sat down, and prepared for the worst. Then it was the judge's turn. "It is not often that in our adversarial system, we have two attorneys representing the opposing parties who argue for the same side. I will take the case under advisement." Translation: "In spite of all that was done to make it impossible for the plaintiff to lose on the issue of summary judgment, you blew it, buster."

There was more. We were escorted to the judge's chambers, where our performances would be evaluated. My opposing counsel's argument was not flawless, but still worthy of good comments. Then the judge looked at me. "Mr. ———, it doesn't look like you'll be arguing too many more cases. Not here, anyway. Here's a dime. Call your mother. Tell her you'll be coming home soon. If you can get the words out, that is." As I walked out of the judge's chambers, I nearly tripped over the bags that had already been packed for me. Things were not going my way.

I decided to skip lunch. (I hadn't deserved it.) I wasn't up to going to my afternoon class. (Why *ask* for trouble?) I went back to my room. On my door there was a note left from my housemate. It read: "You got a phone call from a lady who sounded pretty hysterical. She said she'll see you at the courthouse tomorrow. Something about a legal malpractice suit."

Cottrol, *continued from previous page*

party's peculiar brand of Negrophobia.

Although entrepreneurial success was enjoyed by blacks in the 19th century, especially in the barber and restaurant businesses, the economic disparities between blacks and Irish increased as a result of complex socioeconomic influences. This continued until after WWII. Statistics show that Boston did not provide the same opportunities for either black newcomers or natives as it did for newly arrived immigrants and their children.

A profusion of theories attempting to explain the economic disabilities of blacks in Boston in this century exists. Prof. Cottrol invites one to inquire at this point. In the late 19th and early 20th centuries the Democrats rose to monopolize the politics of several northern cities. Boston elected its first Irish-American mayor in the 1880's and the Democratic-Irish hold on Boston politics remains legendary. This brought with it changes in municipal government at every level, for the new party controlled both appointees and electives to positions affecting the working and living conditions of Boston's citizens. These positions included the judiciary, district attorneys, police officers, health inspectors, licensing inspectors, licensing bureau officials, and zoning commission members. Supporters were also frequently rewarded through the nominally meritocratic municipal civil service.

Blacks did not benefit from this political change. Until the Great Depression, they remained loyal to the Republican party of Lincoln.

Twentieth century urban politics plays a key role in the current antagonisms between the blacks and Irish of Boston. No doubt the politics partly arise from the egalitarian movement alliance beginning in the mid 19th century. This link between Boston politics and the racial tensions raises important questions for legal historians to pursue in detail. Decades of patterns of employment in civil service agencies, police, fire, school, public transportation and sanitation departments all require exploration. Further examination of the web of municipal business regulation, including differential enforcement of licensing requirements, civil court records of actions to sue by blacks, and the criminal justice system all may reveal where race was considered, even in cases where seemingly it was not.

Justice to the legal history of American race relations in modern American is incomplete without asking such political questions of this northern urban phenomenon of immigrant democratic party strength. This can reveal, as Prof. Cottrol closes, "why some urban newcomers saw the beginnings of the American dream, while others found only a dream deferred."

HHRRP to host International Conference at BCLS

By Dennis M. Duffy

On Thursday, April 17, 986, the Boston College Law School Holocaust Rights Research Project (HHRRP) will hold the First Annual International Conference on Human Rights and Holocaust-Related Issues. The overall goal in organizing this conference is to further scholarship in the area of Holocaust-Related legal studies, with the purpose of advancing developments in the field of human rights law. The conference agenda is composed of four panels which concentrate on how domestic courts and legislatures have dealt with perpetuators of Holocaust-Related crimes and how international law has developed in response to the Holocaust.

Three of the panels will focus on domestic law concerning: issues raised by prosecutions of persecutors in criminal, military, and civil litigation; the tension between immigration and national security, interest raised by human rights violators; and, freedom of speech as related to Holocaust denial and group libel.

Among the fifteen speakers included in these panels are: Martin Mendelshoh, General Counsel to the Simon Wiesenthal Center; David Matos, Counsel for the League of Human Rights in Canada; and, Alan A. Ryan, Jr., Former Director of the Justice Department's Office of Special Investigations and author of *Quiet Neighbors; Prosecuting Nazi War Criminals in America.*

The final panel, concerning international law, will focus primarily on the use of the Genocide Convention and its limitation. This is particularly timely in the light of the U.S. Senate's recent ratification of the Convention after thirty-seven years of deliberation. The panel will also consider the role of international agreement; such as extradition treaties in dealing with perpetuators of Holocaust-related crimes. Included on this panel are: Hurst Hammun, Executive Director of the International Law Institute and author of the *Guide to International Human Rights Practice;* and, David Hank, former Executive Director of Amnesty International U.S.A, and current Executive Director of the Cambodian Documentation Commission.

The conference will last all day and is open to the law school and human rights communities. There is no admission charge. In organizing the conference, the HHRRP has decided to invite participants who have a different point of view in order to best serve a vigorous exchange of ideas.

The HHRRP has stressed that the conference is being organized as a symposium. As a result, it is hoped that the format will encourage discussion between the panelists and the conference audience. Therefore, the successs of this conference will greatly depend upon the full participation of the law school community. The HHRRP urges everyone to take some time away from your busy schedule on April 17 and take advantage of the First Annual International Conference on Houman Rights and Holocaust-Related Legal Issues.

Baseball Fever

By Terry Vetter

The best thing about spring is that it marks the beginning of the baseball season and the end of the school season. Even the voices of Ken Coleman and Joe Castiglione sound fresh this time of year.

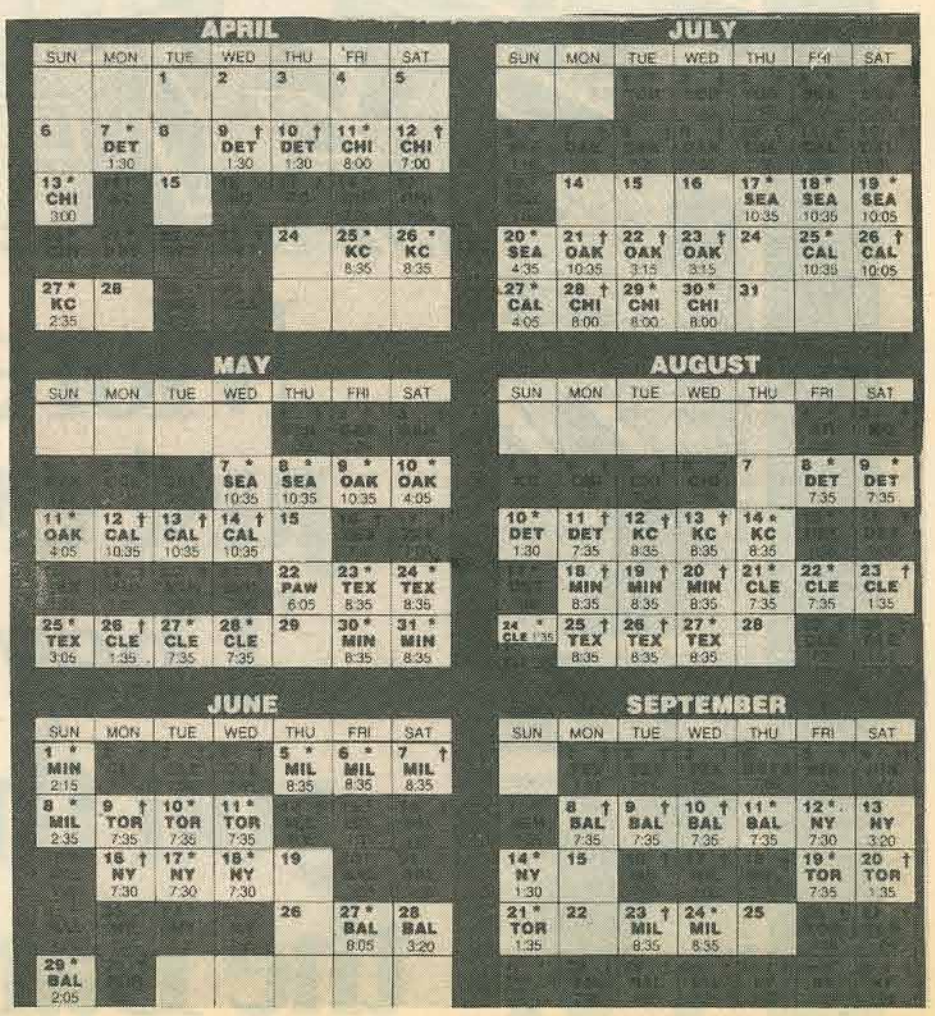
I don't understand why all the experts are not picking the Red Sox as the pre-season favorite to win the World Championship. The Sox have the double play combination of Hoffman and Barrett. Barrett also had two put outs last year with the hidden ball trick. There's also the million dollar pitching of Bob Stanley. The reports from Winter Haven this spring indicate that the off season trades helped the Sox so much that McNamara may use Stanley as a starting pitcher. This would make the Red Sox the only team in major league baseball with an eight man starting rotation. Who needs relief pitching anyway? Especially when the team is such an offensive dynamo. The team's leading base stealer may steal an incredible 20 bases this year. The scouting reports from Winter Haven also indicate that the Sox are a much more aggressive team on the base paths. The scouts are predicting that Bill Buckner will get thrown out more times trying to stretch singles into doubles and trying to score from second base on singles. There is also a rumor that the Sox will give other speed demons like Tony Armas and Dwight Evans the green light more often this year. The added aggressiveness will hopefully cut down on the number of double plays Jim Rice hits into. Rice has been doing a series of exercises to prevent him from hitting the ball so hard. This also will help reduce the record setting pace at which Jim Ed has hit into double plays.

Wade Boggs isn't expected to contribute any more to this years team than he contributed last year. While he has a career batting average of around .355, he only hits singles. To fit into the organization better he needs to lower his average and start hitting for power. If he could do that it might help him win his next arbitration case. If he doesn't start to hit for power Boggs may have to become a free agent. Rich Gedman has a similar problem. While he is one of the best catchers in major league baseball, he is too young. If he doesn't start putting on some years in a hurry he may have to become a free agent with Boggs.

As long as I'm writing about problem players I might as well mention Oil Can Boyd. Boyd would be a good Red Sox but he has too much enthusiasm for the game. Apparently he misunderstood McNamara when the manager wanted the team to be more aggressive this year. McNamara meant on the base paths not on the pitching mound. If Boyd doesn't cool down he may find himself rejoining former teammate Bobby Ojeda with the Mets. At least he could then teach Dwight Gooden how to pitch.

Even with Boggs, Gedman, and the Can Man I am still optimistic about the Red Sox chances this year. Even if they don't live up to my expectations I can still take comfort in the fact that they play in the best ballpark in the major leagues. Two things have me concerned about Fenway though. Bleacher seats are now four dollars a ticket. My other concern is that the Colonial packing house is closing down. Colonial was the maker of Fenway Franks. Does this mean that there will no longer be Fenway Franks at Fenway?

For the answer to the Fenway Frank question and any other questions about this years edition of the Boston Red Sox you can have them answered at the home opener at Fenway on Monday, April 14, at 1:00 pm. Tickets for the game against the Kansas City Royals will be available from the LSA on Monday, April 7, from 12:00-2:00pm in the cafeteria.



B.C. BAR/BRI STUDENT REPS

Class of '86	Fred Gilgun	Sue Perdomo	**Class of '87**	Anne Flavey	Bonnie Rowe
MARY LIZ JOHNSON, Head Rep	Chris Harvey	Ana Reis	KATHIE McLEOD, Head Rep	Frank Flynn	Rich Stacey
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Robert Frank	Caroline O'Brien	Judy Schneider	Tom Corsi	Shirley Kuan	John Wipfler
Juan Garcia	Caroline Orland	Anne Tippett	Marvin Davis	James Oliver	
	Ellen Park	John Winn		Nancy Peremes	